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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,401	07/17/2003	Michael F. Best	71189-1488	1400
20915	7590	03/01/2006	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			SNIDER, THERESA T	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/604,401	Applicant(s) BEST ET AL.	
	Examiner Theresa T. Snider	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/17/03, 7/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 19(0021), 68(0025), 96(0026) and 100,102,104,106,108,110,114,118,124(0030). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because figure 3 has 2-66s, directed to different elements. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:

Exemplary of such:

0001, the status of the copending application s should be updated.

0030, 'removed remaining' should be replaced with 'remove remaining'.

Appropriate correction is required.

Claim Objections

4. Claims 1-18 are objected to because of the following informalities:

Claim 1, 'can function as portable' should be replaced with 'can function as a portable'.

Claim 2, line 3, 'portions' should be replaced with 'portion'.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an upright handle assembly pivotally mounted to the foot assembly, does not reasonably provide enablement for an elongated structural support rigidly mounted at a lower portion to the module platform and forming a handle grip at an upper portion in addition to a handle assembly. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. From figures 1-2, it appears the elongated structural support(further defined in claims 2-4 as tubes) 20 actually make up the handle assembly 12, as opposed to being distinct therefrom. Please clarify.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claims 2-18, line 1, 'A' should be replaced with 'The'.

Claim 3, line 2, it is unclear as to whether the 'a handle grip' is in addition to that of claim 1 or one in the same.

Claims 6 and 12, 'cyclonic' should be replaced with 'cyclone'.

Claims 8 and 14, line 3, 'the cyclone separator' lacks proper antecedent basis.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 1, 11-12 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver et al.('321) in view of Scalfani et al..

Weaver et al.('321) discloses a similar vacuum cleaner however fails to disclose the dirt separator including a cyclone separation chamber.

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Weaver et al.('321) discloses a foot assembly having a suction nozzle (fig. 4, #16).

Weaver et al.('321) discloses an upright handle assembly pivotally mounted to the foot assembly including an elongated structural support and a handgrip (fig. 4, #18,86).

Weaver et al.('321) discloses a module platform pivotally mounted to the foot assembly (fig. 4, #200).

Weaver et al.('321) discloses a portable cleaning module detachably mounted to the module platform (fig. 4, #14).

Weaver et al.('321) discloses the module including a housing (fig. 4, #46), a dirt separator (fig. 7, #139), a suction conduit having a first end connected to the housing (fig. 7, #90) and a motor-driven fan (fig. 7, #170).

Weaver et al.('321) discloses a working air conduit connected to the suction nozzle at one end and to the suction conduit at the other end (fig. 6, #212).

Scalfani et al. discloses a vacuum cleaner that uses a cyclone separation chamber into which air is tangentially introduced through an inlet (fig. 2, #80). It would have been obvious to one of ordinary skill in the art to replace the separator of Weaver et al.('321) with the cyclone separation chamber of Scalfani et al. to allow for the most effective removal of the larger particles from an air stream.

With respect to claim 11, Weaver et al.('321) discloses the suction conduit is at least in part flexible (fig. 5, #90).

With respect to claim 12, Weaver et al.('321) discloses the inlet of the motor-driven fan connected to the outlet of the separation chamber (col. 4, lines 59-62). Scalfani et al. discloses

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the inlet of the motor-driven fan connected to the outlet of the separation chamber (fig. 2, #32,30).

With respect to claim 14, Scalfani et al. discloses a removably mounted dirt cup (fig. 2, #50).

With respect to claims 15 and 17-18, Weaver et al.('321) discloses the module housing having a handle integrally formed at an upper portion thereof (fig. 5, #60).

With respect to claim 16, Weaver et al.('321) discloses the module platform including an opening at an upper surface thereof connected to both the working air conduit and the suction conduit (figs. 6-7, #214).

13. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver et al.('321) in view of Scalfani et al. as applied to claim 1 above, and further in view of Thur et al..

Weaver et al.('321) in view of Scalfani et al. discloses a similar vacuum cleaner however fails to disclose the elongated structural support including a pair of spaced elongated framed joined at an upper portion with the cleaning module positioned there between.

Thur et al. discloses a vacuum cleaner having an elongated structural support including a pair of spaced elongated frames joined at an upper portion with a removal module positioned there between (fig. 1, #30, fig. 10). It would have been obvious to one of ordinary skill in the art to replace the support of Weaver et al.('321) in view of Scalfani et al. with that of Thur et al. to provide for a support that could do double duty by serving also as a location for accommodating cleaning tools.

With respect to claim 3, Thur et al. discloses the frames forming a handle grip at an upper portion thereof (fig. 1, #34).

Allowable Subject Matter

14. Claims 4-10 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Embree et al. discloses a vacuum cleaner having a pair of tubes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Thursday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Theresa T. Snider

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Sheresa S. Miller

Primary Examiner
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2/23/2006